

# Office of the Chapter 13 Standing Trustee

*Isabel C. Balboa, Chapter 13 Standing Trustee†*

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December 9, 2022

The Honorable Jerrold N. Poslusny, Jr.  
United States Bankruptcy Court  
P.O. Box 2067  
Camden, New Jersey 08102

**RE: Chapter 13 Bankruptcy  
Case No. 19-27812 (JNP)  
Debtor(s) Name: Sandra J. May**

Dear Judge Poslusny:

Please accept this letter in lieu of a more formal response and in support of Creditor's motion to Convert Case to Chapter 7 or in the alternative for relief from the automatic stay.

Debtor filed her Chapter 13 Petition on September 18, 2019, with the assistance of Eric J. Clayman, Esquire. Debtor filed a Chapter 13 Plan on October 1, 2019, proposing payment of \$680 for sixty (60) months to pay administrative fees of \$4,065; Internal Revenue Service for \$20, 000; State of New Jersey for \$300; Jersey Shore FCU for \$1,000, PNC for \$1,400; Utility Employees FCU for \$9,873; and proposes sale or refinance of property located at 590 Livezey Street, Philadelphia, Pennsylvania by September 2024. The plan further proposes payment to a third mortgage lien to McCormick, LLC of \$467.87 for fifty-nine (59) months and a lump sum payment in month sixty (60) outside the Chapter 13 plan directly to McCormick through refinance. On October 11, 2019, McCormick 105, LLC filed an objection to Debtor's Chapter 13 Plan.

Debtor filed a sixth modified plan (doc, 77) on October 5, 2020, with payment of \$8,840 paid to date, then \$680 for forty-seven (47) months beginning October 1, 2020. Debtor proposes to refinance property no later than month sixty (60) to make lump sum payment of \$62,000 to Chapter 13 Trustee to satisfy plan. McCormick 106, LLC filed an objection to Debtor's Modified Chapter 13 Plan (Doc 78). McCormick objects stating that Debtor is asking McCormick to wait sixty (60) months based upon the Debtor's hope that she can obtain a refinance of her obligations.

On November 12, 2020, McCormick 106, LLC files a motion to vacate stay as the property located at 9 Brandywine Court, Egg Harbor Township, New Jersey. The Debtor filed an opposition on December 1, 2020 (Doc 82). Debtor's opposition states that Debtor was in contact with Princeton Mortgage about a refinance to payoff mortgage and lien held by McCormick 106, LLC. Debtor was advised she would be able to refinance between month thirty-six (36) and sixty (60). The Judge denied McCormick's motion for relief.

On December 15, 2020, Eric J. Clayman, Esquire and Kyle Eingorn, Esquire, counsel for McCormick 106, LLC entered a Stipulation Resolving Objection to Confirmation and Motion for Relief from Stay. The Stipulation states that creditor has a proof of claim in the amount of \$52,181.19, which is allowed as a secured claim, relating to property at 9 Brandywine Court, Egg Harbor Township, New Jersey. Debtor shall pay creditor's claim in full in full within thirty-six months of the plan.

The Court entered an Order Confirming Debtor's Plan on March 17, 2021, for \$11,220 paid to date then \$680 for forty-two (42) months, with a status on refinance on June 16, 2021.

Debtor filed a motion on April 28, 2021, to sell property located at 590 Livezey Street, Philadelphia, Pennsylvania. The Court set the hearing for May 3, 2021. Debtor requests to sell the property for \$270,000. The Court entered the Order to Sell on May 4, 2021.

The Trustee adjourned the status hearing five times, with the last hearing held on February 2, 2022. The Trustee adjourned the hearings for status of the sale of Debtor's property and for status of the refinance on residence. The Trustee was informed by Debtor's counsel that Debtor intends to retain her New Jersey residence and will finance toward the end of her case. The secured creditor was granted stay relief regarding the property located in Philadelphia. Sheriff sale would be scheduled shortly, and Debtor was no longer attempting to sell property. The Trustee removed case from status and would file motion if/when warranted.

On or about September 13, 2022, Debtor requested a verified payoff from the Trustee's office. The Trustee prepared the payoff on September 13, 2022, for the amount of \$52,668.26. Eric J. Clayman, Esquire contacted the trustee's office and asked that the payoff be reviewed as he felt that it was too high. The trustee's office reviewed the case and realized that the payoff was prepared at 100% to all creditors who file timely claims. The payoff was revised to eliminate the unsecured creditors and on September 20, 2022, an updated payoff was prepared for \$17,165.44. The payoff inadvertently failed to note that McCormick 106, LLC was not included in the payoff figure.

On October 12, 2022, Debtor submitted payment to Trustee for \$17,165.84. The Trustee closed the case as complete and a Plan Complete Letter was filed with the Court on October 17, 2022.

On October 17, 2022, Kyle Eingorn, Esquire reached out to the Trustee's office and Eric J. Clayman, Esquire inquiring the status of payments to his client, McCormick 106, LLC per the Stipulation. (doc 87). The Trustee responded stating that the claim of McCormick 106, LLC was not included in the payoff prepared by the Trustee. Also, asked if Debtor had refinanced her property and where the large payment came from. Mr. Clayman responded that Debtor received 401k loan and did not refinance her mortgage. At the time the Trustee received the funds from the payoff, the case was in the thirty-sixth (36) month. Pursuant to the Stipulation and modified plan, Debtor was to refinance property to pay the claim of McCormick 106, LLC in full by month thirty-six (36).

McCormick 106, LLC filed a secured claim for \$52,181.19. Debtor's plan was confirmed to pay monthly payment of \$680. If Debtor was to pay McCormick 106, LLC through the plan, Debtor would need to make monthly payment of \$2,007. Debtor's Schedule J filed on June 4, 2020, reflect net income of \$731.

On November 23, 2022, McCormick 106, LLC filed a Motion to Convert Case to Chapter 7 or in the Alternative Relief from the Automatic Stay. Debtor has failed to comply with the terms of the confirmed modified plan by failing to pay McCormick's claim through refinance or sale of the property. All other timely filed claims have been paid and the Trustee has no one left to pay. Therefore, the Trustee joins in McCormick's request to convert this matter to a Chapter 7 proceeding, or in the alternative believes Debtor's case should be dismissed.

Respectfully submitted,

*/s/ Jane L. McDonald*  
Jane L. McDonald, Counsel  
for Isabel C. Balboa  
Chapter 13 Standing Trustee

JLM/kt

cc: Jeffrey Jenkins, Esquire (Via CM/ECF)  
Sandra J. May. (Via Regular Mail)  
Kyle F. Eingorn, Esquire (Via CM/ECF)